

MINUTES
Independence Planning Commission/Board of Zoning Appeals
Tuesday, March 1, 2016
Veterans Room, Memorial Hall 5:30 p.m.

Call to Order

Planning Commissioners Present

Jim Hardy, Steve McBride, Mary Schmidt, John Faller, Tony Holmes, Darnell Lawrie, Philip Umlauf and Nick McCollam*

Planning Commissioners Absent

Mary Jo Dancer*

*Outside Appointments

Staff Present

Kelly Passauer, Assistant City Manager/Zoning Administrator

Visitors Present

Brent Bayliff and Jim Clubine

a. Consider approving minutes of the December 1, 2015 meeting.

Mary Schmidt made a motion to approve the minutes from the December 1, 2015 meeting. Tony Holmes seconded the motion to approve the minutes. Motion carried 8-0.

Planning Commission

b. Reorganization

a. Election of Chair – Steve McBride nominated Mary Schmidt as Chair, seconded by John Faller. The motion carried 8-0.

b. Election of Vice Chair – Philip Umlauf nominated himself as Vice Chair, seconded by Steve McBride. The motion carried 8-0.

c. Election of Secretary – Steve McBride nominated Darnell Lawrie as Secretary, seconded by Tony Holmes. The motion carried 8-0.

c. Consider a request to zone a tract of land to M-1, light industrial district at 524 W. Railroad Street.

Brent Bayliff represented the applicant. Staff provided the following information:

Summary:

The Planning and Zoning Commission received a request from Beachner Grain, Inc. to rezone property they are acquiring that was previously unzoned railroad right-of-way to M-1, light industrial district. The parcel requested to be zoned totals 2.82 acres.

The legal description is:

A tract of land located in a portion of the Northeast Quarter of the Southeast Quarter of Section 25, Township 32 South, Range 15 East of the 6th Principal Meridian, Montgomery County, Kansas, being a part of the Depot Grounds and more particularly described as follows:

Commencing at the Northwest corner of Block 4 of Bunker's Addition to the City of Independence;

thence S 90°00'00" E, along the South right-of-way line of Railroad Street, a distance of 26.67 feet to the East right-of-way of 13th Street extended;

thence N 00°07'27" W, a distance of 50.00 feet to the North right-of-way line of Railroad Street and the East right-of-way line of 13th Street for the Point of Beginning;

thence continuing N 00°07'27" W, along the East right-of-way line of said 13th Street, a distance of 86.00 feet;

thence S 89°33'58" E, a distance of 1270.74 feet to the West right-of-way line of 10th Street;

thence S 00°12'34" E, along said West right-of-way line, a distance of 91.86 feet to the aforementioned North right-of-way line of Railroad Street;

thence N 90°00'00" W, along said North right-of-way line, a distance of 1270.82 feet to the Point of Beginning.

Description of the Tract:

The property requested to be zoned is former railroad right of way lying north of the 500-600 block of West Railroad and south of the railroad tracks (2.82 acres). This property lies in the central portion of the City. The parcel contains what had originally been utilized as railroad right-of-way.

Zoning and Uses of Property Nearby:

The adjacent property directly to the north, south and east is zoned M-1. The property directly to the west is unzoned railroad right-of-way.

Character of the Neighborhood:

The area generally consists of industrial with some residential uses further south, east and north.

Suitability of the Subject Property for the Uses to which it has been Restricted:

The property under consideration is not currently zoned. The property is currently on a long term lease by Beachner Grain, Inc. who is in the process of purchasing the property. Since the property is no longer being utilized as railroad right-of-way and Beachner is wanting to install a new grain elevator the property needs to be zoned.

Length of Time the Property has Remained vacant as Zoned:

This property was previously unzoned and has been leased by a grain company for a number of years.

Extent to which Removal of Restrictions will Detrimentially affect Nearby Property:

The surrounding property does include residential properties which are not directly adjacent that could be impacted by the zoning change. However, this zoning classification would be

consistent with the current adjacent zoning and the previous light industrial type use of this property.

Relative Gain to the Public Health, Safety and Welfare by the Destruction of the Petitioner's Property as Compared to the Hardship Imposed upon the Individual Landowners:

Denial of the proposed rezoning will impact the owner's use of the property as it will not allow them to continue to expand their business operations by constructing a new grain elevator that exceeds 45 feet in Independence.

Conformance with the Comprehensive Plan:

The general development plan map recommends the area adjacent to the railroad tracks be developed as industrial.

The Industrial Goal in the Comprehensive Plan provides for the following:

To provide sufficient opportunities for industrial development at locations with suitable access, adequate community facilities and favorable land use and environmental conditions.

- 1. Target industrial development to locations which maximize efficient usage of public and semi-public facilities and minimize the costs of development.*
- 2. Direct industrial activities to locations offering the least negative impact on surrounding land uses and the environment.*

Staff Recommendation

Staff's recommendation is to zone the property to M-1.

Steve McBride made a motion to approve staff's recommendation and approve the request to zone the property M-1. The motion carried 8-0.

d. Consider a request for a conditional use permit to exceed the height limits for a grain elevator in an M-1 zone at 524 W. Railroad.

Brent Bayliff represented the applicant. Staff provided the following staff report:

Summary

The Planning and Zoning Commission received a request to issue a conditional use permit for the following described property which was included in the zoning hearing previously heard tonight:

*A tract of land located in a portion of the Northeast Quarter of the Southeast Quarter of Section 25, Township 32 South, Range 15 East of the 6th Principal Meridian, Montgomery County, Kansas, being a part of the Depot Grounds and more particularly described as follows:
Commencing at the Northwest corner of Block 4 of Bunker's Addition to the City of Independence;
thence S 90°00'00" E, along the South right-of-way line of Railroad Street, a distance of 26.67 feet to the East right-of-way of 13th Street extended;*

thence N 00°07'27" W, a distance of 50.00 feet to the North right-of-way line of Railroad Street and the East right-of-way line of 13th Street for the Point of Beginning;
thence continuing N 00°07'27" W, along the East right-of-way line of said 13th Street, a distance of 86.00 feet,
thence S 89°33'58" E, a distance of 1270.74 feet to the West right-of-way line of 10th Street;
thence S 00°12'34" E, along said West right-of-way line, a distance of 91.86 feet to the aforementioned North right-of-way line of Railroad Street;
thence N 90°00'00" W, along said North right-of-way line, a distance of 1270.82 feet to the Point of Beginning.

513.5 of the M-1 district regulations include a maximum height of 45 feet or three stories. There is an exception for grain elevators which may exceed height limitations provided in this section as a conditional use. The application indicates that the new grain tower will be 110 feet high which exceeds the 45 feet limit by 65 feet.

The zoning ordinance in section 901.1 (page 87) describes the purpose of a conditional use as:

"...those types of uses which are considered by the City to be essentially desirable, necessary or convenient to the community but which by their nature or in their operation have. 1) a tendency to generate excessive traffic, 2) a potential for attracting a large number of persons to the area of the use thus creating noise or other pollutants, 3) a detrimental effect on the value of potential development of other properties in the neighborhood, or 4) an extraordinary potential for accidents or danger to the public health or safety. Such conditional uses cannot be allowed to locate as a 'right' on any parcel of land within certain districts without consideration of existing conditions at the proposed locations and of properties neighboring the specific site considered, nor without adequate and sufficient safeguards, when necessary, to lessen the impact of adverse effects."

Staff Report

Article IX of the Zoning Ordinance addresses purpose and authority for granting conditionals uses.

901.0. Purpose and authority.

901.1. Purpose. Conditional uses are those types of uses which are considered by the city to be essentially desirable, necessary, or convenient to the community but which by their nature or operation have (1) a tendency to generate excessive traffic. (2) a potential for attracting a large number of persons to the area of the use, thus creating noise or other pollutants, (3) a detrimental effect upon the value of or potential development of other properties in the neighborhood, or (4) an extraordinary potential for accidents or danger to the public health or safety. Such conditional uses cannot be allowed to locate as a "right" on any parcel of land within certain districts without consideration of existing conditions at the proposed location and of properties neighboring upon the specific site

considered, nor without adequate and sufficient safeguards, when necessary, to lessen the impact of adverse factors.

901.2. Authority to grant permits: The governing body shall have the authority to grant conditional use permits, subject to such conditions of design and operation safeguards and time limitations as it may determine for all conditional uses specified in appendix "A" of this ordinance and for all permitted uses for which the planning and zoning commission has found that by their nature or in their operation have characteristics listed in clauses (1), (2), (3) and (4) of section 901.1 of this article, provided, however, that said conditional use permits for permitted uses shall not establish standards or conditions that are less restrictive than those set out in the district regulations for the district in which said use is located.

(Ord. No. 3863, § 1, 12-20-01)

In considering those types of uses which may be desirable, necessary or convenient to the community, the Commission should review and make recommendations based in part on 901.1.

Additionally, the decision of the Planning Commission to recommend approval or denial of the proposed conditional use shall be based on the following criteria (902.2):

- a. The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitation*
- b. The proposed conditional use at the specified location will contribute to and promote the welfare or convenience of the public.*
- c. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.*
- d. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate use of the neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:*
 - 1. The location, nature and height of buildings, structures, walls and fences on the site, and*
 - 2. The nature and extent of landscaping and screening on the site.*
- e. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations (article VII).*
- f. Adequate utility, drainage, and other such necessary facilities have been or will be provided.*
- g. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys*

The zoning and uses of the surrounding properties have been presented in the rezoning report.

Action by the Planning Commission

Any recommendations regarding a conditional use permit for the subject property shall be based on Section 902.2 previously outlined in this report. Following your action, the application and your recommendation will be forwarded to the City Commission at which time they will have 30 days to adopt, modify or deny the Planning Commission's recommendation.

Staff Recommendation

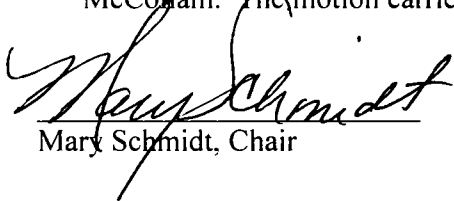
City staff recommends the granting of this request for a conditional use permit to exceed the 45 feet maximum height for the construction of a grain elevator by 65 feet for a total allowed height of 110 feet.

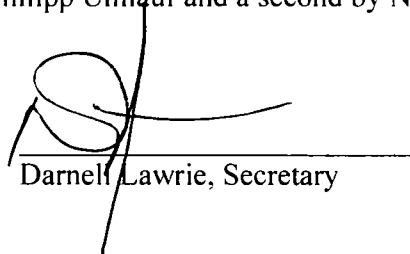
Staff's recommendation is based on the criteria set forth in 902.2, "a through g" of the zoning code.

A motion was made by Steve McBride, seconded by John Faller to approve the conditional use permit to exceed the height requirements in an M-1 district by 65' for the construction of a 110' tall grain elevator as requested and recommended by staff. The motion carried 8-0.

Adjournment

The meeting was adjourned with a motion by Philipp Umlauf and a second by Nick McCollam. The motion carried 8-0.


Mary Schmidt, Chair


Darnell Lawrie, Secretary